

## REMARKS

### REJECTION UNDER 35 U.S.C. §101

Claim 2 is rejected under 35 U.S.C. §101 because the Examiner asserts that the microorganism, as claimed, is considered to be a product of nature.

Claim 2 has been amended to insert "An isolated" immediately before the terminology "*Bacillus cereus* IBN-H4 strain (accession number : KCTC 0835 BP)," and is now believed to be in allowable form under 35 U.S.C. §101.

Reconsideration and allowance is respectfully requested.

### REJECTION UNDER 35 U.S.C. §112

Claims 2 and 4-7 are rejected under 35 U.S.C. §112, first paragraph. The Examiner submitted that a deposit had not been supplied or made under the Budapest Treaty.

Attached hereto is a Receipt In The Case Of An Original Deposit, which recites that such a deposit was made on July 18, 2000. The Director of the International Depositary Authority signed the Receipt on July 21, 200.

Thus, claims 2 and 4-7 are deemed to be allowable under 35 U.S.C. §112, first paragraph.

### OBJECTION TO CLAIMS 4-7

Claims 4-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims drawn to the elected species.

Claim 4 has been rewritten in independent form, including all of the limitations of the base claim and any intervening claims drawn to the elected species. Thus, claim 4 is believed to be allowable.

Since claims 5-7 depend from amended claim 4, claims 5-7 are also believed to be allowable.

Thus, claims 4-7 are now believed to be in allowable form.

### **PRIOR ART STRAIN QUESTION**

The Examiner submits that there is a question as to the prior art strain indicated on page 16 which recites that "IBN-H4 strain was shown to have 100% homology with *Bacillus cereus* IAM 12605T (see Table 5)..." as to the article or journal pertaining to this strain.

It is respectfully submitted that, to identify strain IBN-H4, the inventors compared the 16S rDNA sequence of strain IBN-H4 with the sequences in the Ribosomal Database Project (RDP, <http://rdp.cmo.msu.edu/html/>) by using the SEQUENCE MATCH service and the GenBank nucleotide database (<http://www.ncbi.nlm.nih.gov>). Thus, there is no article or journal relating to *Bacillus cereus* IAM 12605T.

### **CONCLUSION**

In accordance with the foregoing, claims 2 and 4 have been amended. Claims 2 and 4-7 are pending and under consideration.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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